United Nations S/AC.37/2003/(1455)/72

Security Council

Distr.: General
24 September 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 19 September 2003 from the Permanent Representative of Yemen to the United Nations addressed to the Chairman of the Committee

The Permanent Representative of the Republic of Yemen to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to enclose herewith an updated report of the Government of Yemen pursuant to Security Council resolution 1455 (2003) (see annex).

03-53278 (E) 101003 131003

Annex to the note verbale dated 19 September 2003 from the Permanent Representative of Yemen to the United Nations addressed to the Chairman of the Committee

[Original: Arabic]

I. Introduction

Question 1

There are no structures in the territory of the Republic of Yemen to enable Osama bin Laden and his associates to carry out their activities, as the information and evidence provided to date have not established their existence. However, there is limited activity by al-Qaidah and its partners in the Republic of Yemen which takes the form of terrorist acts financed, planned and executed by foreign elements currently in the country.

There are Yemeni citizens in the territory of the Republic of Yemen who went to Afghanistan at a certain point and then returned to Yemen. The security services took preventive measures against them, such as detaining and interrogating them in order to obtain information. Anyone whose involvement has been proved has been brought to justice, while anyone proved innocent has been released and integrated into society.

Before and after the events of 11 September 2001, since terrorist activities have increased, the Republic of Yemen has been subject to terrorist acts, but the evidence has shown that such acts were planned, financed and executed abroad. The Government has therefore strengthened the role and capacity of the security services, which have achieved a number of successes in this area.

II. Consolidated list

Question 2

The Yemeni authorities distributed the list to banks and non-bank institutions in accordance with the instructions of the Council of Ministers dated 3 October 2001 and 31 August 2003, which specified the measures to be taken by the banks' head offices and branches. The Yemeni authorities also issued clear instructions to financial institutions to examine any suspicious situations involving foreign elements in the country who might be connected with the activities of al-Qaidah and the terrorists. A contact point is currently being chosen for liaison with the United Nations in order to provide ongoing follow-up and reporting on new developments, as stipulated in the aforesaid list. Act No. 35 of 2003, issued in connection with the fight against money-laundering, sets out ways and means of detecting money-laundering and analysing its sources to the extent possible.

The Committee's lists were circulated to the police, immigration, customs, and consular authorities, so that each authority could discharge its duties in accordance with the criminal law and the administrative regulations in force in the Republic of Yemen.

Question 3

There were no implementation problems concerning the names on the list.

Question 4

Yes, the competent financial authorities identified a designated individual, Muhammad Hamdi Muhammad Sadiq al-Ahdal. The Yemeni authorities took the necessary measures regarding him. With the exception of this case, the authorities did not identify any designated individuals or entities.

Question 5

This question has never arisen, since there are no individuals or entities not included in the list in the Republic of Yemen.

Question 6

No lawsuits or legal proceedings have been bought against the authorities in the Republic of Yemen.

Question 7

None of the listed individuals is a Yemeni national or a resident of Yemen. We have no information on listed individuals.

Question 8

Act No. 12 of 1994 concerning the Criminal and Penal Code, Act No. 24 of 1998 on kidnapping and armed interception, and Act No. 40 of 1992 on the bearing of and trade in firearms and ammunition contain provisions sufficient to prevent entities and individuals from forming entities, military commands or terrorist groups, and organizing the bearing of, trade in and possession of personal weapons. On the other hand, the Yemeni legislative authorities have taken strict measures to prevent individuals having ties to al-Qaidah from entering Yemen, and the law enforcement authorities are prepared at any time to prevent activities or attacks from being carried out by members of al-Qaidah and its accomplices in the country. We confirm once again that there is no training camp belonging to a group of al-Qaidah members.

III. Financial and economic assets freeze

In accordance with Security Council resolutions 1267 (1999), 1333 (2001), 1390 (2002), and 1455 (2003), the Republic of Yemen published the Council's lists containing the names of individuals and entities belonging to or associated with the Taliban and al-Qaidah, pursuant to instructions issued by the Council of Ministers on 3 October 2001 and 31 August 2003 and the circulars issued to the banking sector by the Central Bank, as follows:

1. Circular No. 81206 of 4 October 2001, which provides for the suspension of financial support to terrorist individuals and organizations and their supporters and the immediate freezing of the funds, financial assets and economic resources of the individuals and entities included in the Security Council list;

2. Circular No. 86735 of 18 October 2001, to which the Security Council list is annexed;

3. Circular No. 99230 of 24 November 2001, to which the two supplementary Security Council lists are annexed and attached;

4. Circulars Nos. 75304 and 75305 of 3 September 2003, addressed to all banks and exchange offices in the Republic of Yemen.

Question 9

The domestic legal basis for the asset freeze is compliance by the Republic of Yemen with the provisions of the Security Council resolution, under which the State is required to have the Council of Ministers issue clear instructions to the bank supervisory authority in this regard.

Question 10

There are no Osama bin Laden, al-Qaidah or Taliban-related financial networks, and the Central Bank of Yemen has at its disposal a number of preventive measures which are applied by the Bank Monitoring Section and the Intelligence Unit.

Question 11

The Republic of Yemen was one of the first States in the world to commit to taking strict measures in the fight against terrorism and money-laundering. Yemen was the twenty-fourth State in the world to meet the requirements of the International Monetary Fund by taking measures in this area, other than those taken by the authority which monitors banks and exchange offices, as follows:

(a) The Central Bank of Yemen circulated all the Security Council lists dealing with the freezing of funds, assets and resources belonging to the aforesaid individuals and entities and their associates to all banks in the Republic of Yemen;

(b) A circular was issued and distributed to all banks and exchange offices operating in the Republic of Yemen, informing them of the obligation to verify all financial transactions; the 40 recommendations of the Financial Action Task Force on money-laundering (FATF) were useful in this regard. Special instructions were attached to this circular concerning the due diligence and "know your customer" requirements that are the subject of a publication of the Bank for International Settlements based in Basel, Switzerland;

(c) Act No. 24 of 1998 on crime, kidnapping and armed interception was published;

(d) Act No. 35 of 2003 on money-laundering was published, under which the scope of monitoring was expanded to include banks, exchange offices, finance and insurance companies, shares, banknotes, lease agreements and property loans;

(e) Establishment, under Act No. 35 of 2003, of a money-laundering intelligence unit.

By means of these circulars, to which the lists were annexed, the Central Bank requested the banks and the other financial institutions to provide it with information on anyone included in the lists. Only one account was identified, under

the name of Muhammad Hamdi Muhammad Sadiq al-Ahdal, with a balance of 5,900 rials.

In addition, on 9 April 2002, the Central Bank issued Circular No. 22008, containing all the instructions issued by the Basel Committee on Banking Supervision under the title "Customer due diligence for banks" (October 2001), as well as the "know your customer" requirements.

These obligations are complied with by requiring banks and exchange offices to abide by domestic monitoring and verification measures while observing the due diligence instructions and the "know your customer" principle. Likewise, Central Bank inspectors ensure that banks and exchange offices comply with all the "know your customer" requirements at the local level, in order to protect the banking sector from any money-laundering or terrorist financing operations. The names of the monitoring bodies and their activities are as follows:

- The Ministry of Finance, which fully supervises the financial sector and presides over the Committee against Money-Laundering;
- The Central Bank, which supervises the banking sector (banks, exchange offices and other financial institutions involved in the fight against money-laundering);
- The Bank Monitoring Section of the Central Bank, which monitors the field and branch offices of banks and exchange houses, and monitors cash transactions along with the Money-Laundering Intelligence Unit;
- The Committee against Money-Laundering, which is responsible for the implementation of Act No. 35 of 2003 on money-laundering is composed of all the parties concerned.

Question 12

A single individual was identified, Muhammad Hamdi Muhammad Sadiq al-Ahdal exists, whose financial assets, consisting of only 5,900 rials, were frozen.

Question 13

No frozen assets have been released in accordance with Security Council resolution 1452 (2002).

Question 14

The domestic legal basis, regulations and procedures are as follows:

(a) The instructions of the Council of Ministers, dated 3 October 2001 and 31 August 2003, regarding the suspension of financial support to terrorist individuals and entities and their associates and the freezing of their assets;

(b) Act No. 1 of 2001, on non-governmental associations and institutions, which stipulates clearly the need to declare goals and objectives and indicate the sources of funding of all non-governmental activities, in order to ensure that there are no funding activities not stipulated or authorized by law;

(c) Central Bank Circulars Nos. 81206, 86735, 99230, 75304 and 75305, of 4 and 18 October, and 24 November 2001 and 3 September 2003, addressed to the banking sector, containing lists of terrorist individuals and entities in accordance with the relevant Security Council resolutions, and pursuant to the aforesaid resolution and instructions of the Council of Ministers;

(d) Act No. 35 of 2003 on money-laundering, which protects the financial and banking sector by preventing any money-laundering operations;

(e) Circular No. 32989 issued by the Central Bank, on 1 June 2002, containing accounting procedures for non-governmental associations and institutions in the banking sector and providing for coordination with the Ministry of Social Affairs and Labour;

(f) Central Bank Circular No. 22008 of 9 April 2002, on suspect funds, addressed to all banks and exchange offices operating in the Republic of Yemen, stating the importance of ensuring that capital flows using the banking and financial sector payment system in Yemen have a legitimate source, verifying that such flows do not violate laws and regulations and checking whether their source is a money-laundering operation. The Central Bank requires banks and exchange offices to apply the following procedures:

1. In the case of individuals, verify the customer's identity, address and occupation, and photocopy the documents when opening an account or carrying out any banking transaction with him. In the case of entities, verify the legal documents of legal persons (individual enterprises, companies, corporate groups and charitable associations) and photocopy official documents, such as the charter or article of incorporation or both, the names and addresses of the owner(s), and the names and addresses of shareholders having more than a 5 per cent stake in the capital of the company, as well as the names and addresses of the members of the board of directors and the director-general; verify periodically whether there have been any changes or amendments or whether official documents or any of the aforesaid documents have been removed.

2. It is strictly forbidden to open accounts using borrowed or false names or anonymously. If an account is opened through correspondence from abroad, the authenticity of the signature must be verified with the sending bank in the country of the individual applying to open an account, even if there is a proxy statement authorizing the opening of a proxy account.

3. Verify the identity of anyone requesting transfers who has a bank account and wishes to transfer a sum of over US$ 10,000 or its equivalent in other currency.

4. Verify the identity of anyone depositing a large amount of cash or travellers cheques into an account opened in the name of one or more other persons whose names appear on the application to open one or more accounts, or if there is a power of attorney or the individual does not have the legal capacity to deposit funds in such accounts.

5. Act cautiously and with diligence and gather all necessary information in the following cases:

– Rental of safety-deposit boxes;

- Cashing of cheques issued by foreign agencies which have endorsed them to other agents;
- Large cash deposits that appear abnormal;
- A large increase in cash deposits without an apparent reason, especially if the sums were deposited over a short period;
- Transfers of large sums abroad for persons not residing in Yemen;
- The opening of many accounts for a single individual without justification and an increase in the account activities which attracts attention and has no clear purpose or has a purpose which is unrelated to the owner of the account and his commercial activity or business;
- The purchase of high-value securities (treasury bonds) when this does not seem consistent with the commercial activity or lifestyle of the beneficiary;
- When receiving sums in foreign or local currencies, verify the authenticity of the currency, act with great caution and beware of counterfeiting;
- Records, correspondence and statements of account must be kept for at least 10 years;
- In case of suspicion or discovery of suspect transactions, alert the management of the bank or competent institution so that the necessary measures can be taken without attracting the attention of the individual concerned;
- All banks and exchange offices must comply with the above procedures and report anything that impedes or prevents them from following these instructions.

• The methods used in the Republic of Yemen to inform banks and other financial institutions of the restrictions imposed on the designated individuals and entities are as follows:

- In accordance with the resolution and instructions of the Council of Ministers dated 3 October 2001 and 31 August 2003 on the suspension of financial support to terrorist individuals and entities and their supporters and the freezing of their funds, financial assets and economic resources, the Central Bank issued instructions together with the lists of the individuals and entities concerned, indicating what the banks must do in order to carry out the instructions of the Council of Ministers, and requested banks to freeze assets and provide the Central Bank with any information on the assets, individuals and entities concerned, and on any financial transactions carried out by them.
- With regard to the institutions that were informed, all banks and their branches operating in Yemen were informed through circulars issued by the Central Bank.

• The measures to be implemented by exchange offices in the Republic of Yemen in order to inform the Central Bank about funds or financial assets belonging to a listed individual and any financial transactions or other information concerning such individuals are included in the circulars issued by the Bank and are binding on banks and exchange offices. Banks are also required under Circular No. 22008 of 9 April 2002, to inform the management

of the Central Bank of any suspicious transactions without drawing the attention of the person concerned.

In addition, Act No. 35 of 2003 on money-laundering requires all financial institutions (banks, exchange offices and other financial institutions) to inform the Money-Laundering Intelligence Unit of the Bank Monitoring Section at the Central Bank of any suspicious situation. Such notifications are reviewed and assessed by the Intelligence Unit in order to collect evidence for transmittal to the Attorney-General under the supervision of the Governor of the Central Bank in order to carry out an investigation and take the legal and penal measures required in each case and then refer them to the competent courts for a legal ruling.

- Act No. 35 of 2003 on money-laundering has expanded the scope of the reporting obligation to all suspicious transactions so as to include the following financial institutions: banks, exchange offices, finance companies, insurance companies, corporations, leasing companies and mortgage companies.

Under this Act, all these entities are required to report to the Money-Laundering Intelligence Unit on any capital transaction that has been confirmed to be suspicious.

- The restrictions and regulations applicable to alternate remittance systems or related systems, such as "hawala" are the same as those applicable to payment methods (cash, cheques and money orders).

IV. Travel ban

Question 15

In accordance with Act No. 47 (1991) concerning the entry and sojourn of aliens, individuals who pose a threat to security in Yemen are not permitted to enter Yemeni territory, and the competent security services at land, air and sea entry points have been provided with the travel ban list and the list of individuals prohibited from entering Yemen. In accordance with a resolution passed by the Council of Ministers, the Ministry of the Interior and the competent security services have incorporated the names of the listed individuals into their database on individuals whose entry into the Republic of Yemen is prohibited, which is directly linked to the competent central Government departments. The aforementioned list poses a number of problems, inter alia, uncertainty regarding the spelling of names, since letters sometimes appear two, three or four times in a row, and the lack of information about the nationality of many of the listed individuals.

Question 16

Yes, these names appear on the national travel ban list and the individuals concerned are subject to the measures taken at entry points, such as the examination of documents carried by travellers. If an individual or a name is identified, the authorities take the necessary steps. The problems and difficulties encountered have already been outlined in the answers to previous questions.

Question 17

The travel ban list is revised and updated on an ongoing basis and transmitted to the entry points. Owing to the lack of modern electronic means, the travel ban list is searched in the best way possible, and each time the list prepared by the Security Council Committee is updated it is transmitted to the entry points managed by the Ministry of the Interior.

Question 18

To date, none of the listed individuals has been stopped while attempting to enter Yemen or transit through Yemeni territory via one of the entry points.

Question 19

The competent departments receive the lists periodically and transmit the information, together with their observations, to the entry points. They authorize the entry of individuals who do not appear on the lists.

V. Arms embargo

Question 20

(a) The Ministry of the Interior has taken the following measures:

It has instructed the security services to implement a programme of weekly investigations with a view to preventing the bearing and possession of arms. Unauthorized weapons are seized and transferred to the public prosecutor's office so that the relevant legal measures can be taken to prevent terrorist elements liable to be associated with Osama bin Laden or the Taliban from using arms to undermine security.

- Strengthening of security arrangements in all State institutions and bodies and foreign embassies and consulates. As preventive security measures: increasing the number of security service personnel or closing certain access routes and installing concrete barriers in order to prevent any transport vehicles from stopping in the vicinity; the deployment of secret service and intelligence personnel and facilitation of their patrols, and security monitoring of all embassies in order to cater for every eventuality;
- Strengthening of security measures when members of the diplomatic corps travel between the governorates of the Republic by providing security service escorts, alerting governorates to the passage of diplomats and taking the necessary security measures;
- A plan was designed for the deployment of security forces in all the governorates of the Republic with a view to strengthening security in all districts. In addition, security monitoring and traffic checkpoints have been set up on the main roads linking the governorates, so that security measures can be implemented rapidly when information is received about terrorist elements carrying out activities which undermine security;

- Creation of a security directory containing the names and photographs of various individuals wanted by the security services in connection with terrorist activities. A number of these individuals have been captured;

- A study on port security, conducted in collaboration with Trident Maritime, a specialist British company, with a view to identifying gaps and shortcomings and attempting to rectify them by providing the means necessary to take the following measures:

(a) Support from the naval forces by means of patrols providing certain sectors with permanent surveillance;

(b) Enumeration and registration of vessels and monitoring of their movements between sectors;

(c) Establishment of a security belt and multiplication of inspection points;

(d) More concentrated military presence around ports;

(e) Preparation of a plan intended to create anchorages for ships;

(f) Measures to improve inspections of goods shipped from ports;

(g) Creation of a service responsible for maritime excavations close to the coastline;

(h) Development of security plans for all ports in order to cater for all eventualities;

(i) Stepping up investigation activities, in particular those relating to individuals able to obtain authorization to enter ports;

(j) Escorts for oil tankers provided by the naval forces;

(k) Development of plans for observation towers, repair and strengthening of certain privately owned walls in a number of ports, and increased and improved lighting.

In addition, the Ministry of the Interior, in collaboration with the security services, has also taken the following steps:

- Raids on the strongholds of terrorist groups and elements belonging to the Aden-Abyan Islamic Army organization, attacks on their positions in the Hattat region of Abyan governorate and imprisonment of a number of these elements. They are currently being interrogated with a view to passing the case on to the public prosecutor's office;

- Arrest of terrorist elements responsible for acts leading to the deaths of American citizens in Abyan governorate and the murder of a politician at the mayor's office in the capital. The case has been referred to the courts and legal and penal measures have been taken against the perpetrators;

- Provision of a number of advanced detection systems in airports and strengthening of security measures;

- Pursuit and arrest of terrorists whose involvement in terrorist acts and offences has been proven and referral of their cases to the courts;

- Gathering of data on suspects in order to obtain information about their activities and plans;

- Monitoring of small arms markets and merchants and cooperation with owners in order to inform the competent services of any terrorist element attempting to purchase arms.

Yemen also controls the import of arms, explosives and technologies necessary for weapons development and production, since the import of such material is prohibited unless it is authorized by the Ministry of the Interior, which issues a permit identifying the type of material, the reason for its import and its country of origin. When the authorized material arrives at the Yemeni port, it is placed under the supervision of the representatives of the security services, who oversee its arrival. Security guards then supervise it during its transport to the premises of the importer and during storage.

Lastly, the goods are supervised during their distribution, sale and use. More often than not, authorization is given only in respect of explosives used for development projects, such as dynamite and nitrate, which are used in the excavation of roads and mountains and the construction of bridges.

Question 21

(a) Legislation has been passed which criminalizes the illegitimate and non-official possession and use of arms and explosives, namely, articles 137, 143, 144, 145 and 146 of Penal Act No. 12 of 1994 and article 42 of Act No. 40 of 1992 governing the bearing of firearms and ammunition;

(b) Certain outlets selling conventional small weapons which failed to observe the relevant laws and regulations have been closed;

(c) An operation has been organized to collect conventional arms owned by certain citizens, in particular, arms that the security services fear might fall into the hands of terrorist groups or groups carrying out activities which undermine national security and stability. These arms are purchased and sent to the State arsenals;

(d) All the arms seized from terrorists or used to commit offences are confiscated.

Question 22

The competent State departments do not issue firearms or explosives licences to known or suspected terrorists or terrorist organizations. Indeed, such individuals or groups are pursued, and any arms or other prohibited items are seized and impounded.

Question 23

Yemen is a third world country and does not manufacture or produce arms, explosives or the technology used in their production; therefore, there is no material in Yemen which could be used in the manufacture of weapons, conventional or otherwise, and no activities are carried out in this area. The State, through the Ministry of the Interior, makes every effort to prevent consignments of conventional weapons from being smuggled from Yemen to neighbouring States, in particular, through the implementation of the following measures:

(a) Increasing the number of security personnel and strengthening their presence in ports and at land, sea and air entry points, and providing them with modern equipment to facilitate the detection of arms and related materials;

(b) Creation of an automated border control service covering the entry points and border posts linking Yemen and neighbouring States with a view to facilitating control in order to prevent terrorists or individuals from infiltrating Yemeni territory, seizing contraband items leaving the country, and capturing individuals seeking to evade prosecution;

(c) Establishment of a number of border posts linking Yemen and neighbouring States, staffed with personnel responsible for security and information, and coordination with these personnel in order to combine efforts.